



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

[www.deq.virginia.gov](http://www.deq.virginia.gov)

L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Gerard Seeley, Jr.  
Regional Director

## **WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO LASCO CONTRACTING CO., LLC**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Lasco Contracting Co., LLC. for the purpose of resolving certain alleged violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management Regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Facility" means the property located at 4000 Portugee Road in Sandston (Henrico County), Virginia, where the Lasco has offices and conducts its day-to-day operations.

6. "Lasco" means Lasco Contracting Co., LLC, a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Order" means this document, also known as a Consent Order.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "VHWMR" means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 et seq.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. In late 2005, Lasco entered into a contract with a generator to remove and dispose of used air filters contaminated with lead. The generator of the waste determined that the used filters were hazardous waste, and specified in the contract that Lasco was to manage them as such. In February 2006, Lasco picked up the lead-contaminated used air filters from the generator and transported them to its facility at 4000 Portugee Place in Sandston (Henrico County), Virginia.
2. During a separate incident in January 2006, Lasco transported four 55-gallon drums containing paint chips from a renovation project in Richmond, Virginia to its facility in Sandston, Virginia. Labels stating "Hazardous Waste, Solid, N.O.S. Lead (D008)" were present on all of the drums, however Lasco representatives stated that these labels were old and did not apply to the current drum contents. Three of the four drums were tested for lead content by the generator before the shipment. The fourth drum was not tested at that time. Lead concentrations greater than 5.0 mg/L are considered characteristic hazardous wastes, according to 40 CFR §261.24. Two of the sampled drums contained TCLP lead concentrations of 17.7 and 31.7 mg/L. The generator re-tested all four drums after the shipment, and all four drums contained lead levels greater than the 5.0 mg/L regulatory limit.
3. Lasco did not fulfill the following statutory and regulatory requirements for the transport and storage of hazardous waste described in Paragraphs C.2 and C.3, above:
  - a. Lasco did not obtain a permit for transporting hazardous waste, which is required by 9 VAC 20-60-450.B of the VHWMR;
  - b. Lasco did not obtain an EPA ID number for the management of hazardous waste, as required by 40 CFR §263.11;
  - c. Lasco did not complete a hazardous waste manifest for the shipments in accordance with 40 CFR §264.71(a)(2) or complete an unmanifested waste report, required by 40 CFR §264.76(a);
  - d. Lasco did not obtain a permit for the storage of hazardous waste, as required by 40 CFR §270.1(c), or implement the standards found in 40 CFR §264.11, which are applicable to operators of facilities which store hazardous waste.

4. On April 26, 2006, Notice of Violation (NOV) No. 2006-04-PRO-601 was issued for the violations described in Paragraphs 5, above.
5. A meeting between DEQ staff and Lasco representatives was held on May 18, 2006 to discuss the violations listed in the NOV. The waste air filters were returned to the generator at the generator's request. The drums containing hazardous waste have been shipped to a hazardous waste disposal facility using a permitted hazardous waste transporter.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders Lasco, and Lasco voluntarily agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Lasco, and Lasco voluntarily agrees, to pay a total civil charge of \$36,000, consisting of 4 quarterly payments of \$9,000 each, in settlement of the violations cited in this Order. Payments shall be due 30 days, 120 days, 210 days, and 300 days after the effective date of this Order. Payments shall be made by check payable to the "Treasurer of Virginia" and shall be delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1150  
Richmond, Virginia 232218

Either on a transmittal letter or as a notation on the check, Lasco shall include its Federal Identification Number.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Lasco for good cause shown by Lasco, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation (NOV No. 2006-04-PRO-601) issued by DEQ on April 26, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

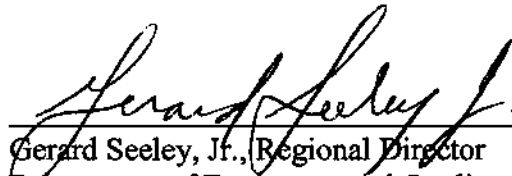
3. For purposes of this Order and subsequent actions with respect to this Order, Lasco admits the jurisdictional allegations, but does not admit the factual findings or conclusions of law contained herein.
4. Lasco consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Lasco declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Lasco to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Lasco shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Lasco shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Lasco shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
12. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any

condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Lasco. Notwithstanding the foregoing, Lasco agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Lasco. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Lasco from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Lasco voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of April 30, 2007.

  
Gerard Seeley, Jr., Regional Director  
Department of Environmental Quality

Lasco voluntarily agrees to the issuance of this Order.


Date: 3/21/07

By:   
~~Mildred D. Tucker, Manager~~ Curtis L. Coleman  
Lasco Contracting Co., LLC

Commonwealth of Virginia  
City/County of Henrico

The foregoing document was signed and acknowledged before me this 21<sup>st</sup> day of

March, 2007, by Curtis L. Coleman, who is  
(Name)  
Senior Director  
of Operations of Lasco, on behalf of the Corporation.  
(Title)

  
Notary Public

My commission expires: 9-30-08

## **Appendix A**

1. **No later than 60 days from the date of this Order**, Lasco shall remove the word “Disposal” from the phrase “Hazardous Waste Removal & Disposal” from all advertising media, including but not limited to vehicles, letterhead, and business cards.